808 KAR 9:010. Deferred deposit database compliance.

RELATES TO: KRS 286.9-010(6), 286.9-075, 286.9-100(1), (7), (9), (10), (18), (19), 286.9-140

STATUTORY AUTHORITY: KRS 286.9-090(1), 286.9-100, 286.9-140(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.9-100(9) prohibits licensees from having more than two (2) deferred deposit transactions from any one (1) customer at any one (1) time and limits the total proceeds received by a customer from all deferred deposit transactions to $500. KRS 286.9-140(1) requires the commissioner to implement a common database with real-time access through an internet connection accessible to the department and licensees to verify whether any deferred deposit transactions are outstanding for a particular person and authorizes the commissioner to adopt rules to administer and enforce KRS 286.9-140. This administrative regulation establishes requirements for licensee use of the database established pursuant to KRS 286.9-140.

Section 1. Definitions. The following shall be additional definitions of "closed" or "close" under KRS 286.9-010(6)(e):

(1) The customer's payment instrument was unpaid and the licensee has sold the underlying debt to a non-affiliated third party without recourse;

(2) The underlying debt represented by the customer's payment instrument has been discharged in bankruptcy;

(3) The database provider has designated the deferred deposit transaction concerning the customer's payment instrument as closed pursuant to KRS 286.9-140(7); or

(4) The licensee has reported to the database provider that the deferred deposit transaction concerning the customer's payment instrument is closed following being held open pursuant to KRS 286.9-140(7).

Section 2. Deferred Deposit Database Requirements.

(1) A licensee shall institute procedures and maintain an accounting system designed to:

(a) Prevent the licensee from entering into transactions with a customer in violation of KRS 286.9-100(9), including procedures for:

1. Maintaining a record of all current transactions with the licensee; and

2. Checking the record of current transactions with the database prior to issuance of a new transaction; and

(b) Generate reports that will readily permit examination and verification of compliance with KRS 286.9-100(9), KRS 286.9-140, and this section by department examiners.

(2) For each deferred deposit transaction, a licensee shall submit:

(a) The customer's date of birth;

(b) The check number of the payment instrument;

(c) The database verification fee charged to the customer, if any;

(d) The service fee charged to the customer; and

(e) The date the payment instrument was deposited or otherwise presented for payment.

(3) A licensee shall not cause a closed deferred deposit transaction to be reopened in the database unless:

(a) The deferred deposit transaction was closed by reason of clerical error by the licensee;

(b) The licensee causes the deferred deposit transaction to be reopened on or before the close of business on the business day after the transaction was closed; and

(c) Reopening the transaction would not cause the consumer to exceed the transaction limits set forth in KRS 286.9-100(9).

(4) A licensee shall not accept, collect, or seek payment on a deferred deposit transaction that is designated as closed in the database.

(5) A licensee that has reported to the database provider that a deferred deposit transaction is open beyond the maturity date pursuant to KRS 286.9-140(7) shall immediately notify the database provider when the transaction becomes closed.

(6) A new licensee or an existing licensee applying for an additional location shall establish an account with the database provider for each location prior to the time of application. (27 Ky.R. 1707; Am. 2788; eff. 4-9-2001; TAm eff. 5-2-2007; 41 Ky.R. 2634; 42 Ky.R. 686; eff. 9-22-2015; 45 Ky.R. 2220; eff. 5-3-2019.)